



DET KONGELIGE  
NÆRINGS- OG HANDELSDEPARTEMENT

*The Royal Ministry of Trade and Industry  
The Minister*

Mr. Michel Barnier  
Commissioner for Internal Market and Services  
European Commission  
B-1049 Brussels  
Belgium

Your ref

Our ref  
201002370-14/PSN

Date  
02.09.2010

Dear Commissioner,

Further to our discussions in Brussels 23 June 2010, I would like to take this opportunity to make some comments on the report by professor Monti on a new strategy for the Single Market.

Through the EEA Agreement, Norway is fully participating in the Single Market and several EU programs. As a consequence Norway takes great interest in the Monti report as well as in the Communication of the Single Market Act due later this fall.

*Introduction*

While continuously striving for improvements, it is also important to acknowledge the success of the Single Market since its establishment. This should be part of the message when communicating and building consensus on the Single Market.

An efficient Single Market is a prerequisite for continued growth and important for a quick recovery from the current economic crisis. Short-term national interests should not tempt us to jeopardise what we have slowly achieved step-by-step over many years by turning to protectionist or trade distorting measures, either between Member States or towards third countries. It is vital that all countries act responsibly in order to avoid the use of damaging measures that could escalate and obstruct the level playing field based on the EU rules on competition, state aid and public procurement, or more generally on multilateral rules. Efficient competition, less but better targeted support measures and more widespread use of the polluter-pays-principle will contribute to an efficient use of the resources available.

A single market that contributes to fulfilling social and environmental objectives and supports the transition to a low-carbon and resource efficient economy is important for creating sustainable paths to jobs and increased welfare. Providing such models for middle-income and developing countries economic development is key to reaching global sustainability. It could be considered to include a reference to and an understanding of the economic value of ecosystem services in the new strategy.

#### *Getting the basics right*

Norway fully subscribes to the importance of an efficient single market, reducing barriers between national markets and lowering the cost of doing cross border business. The Services Directive and the Goods Package have been important milestones to ensure this. Exploring the full potential of the digital single market is also vital.

The use of standards, including standards developed in new areas and for new needs, has become increasingly important for fulfilling the legal requirements of the Single Market. We welcome the review of the European Standardisation System currently undertaken by the European Commission.

The Single Market depends on trust. Businesses and citizens must be informed and be able to effectively exercise their rights throughout the Single Market. The efforts to strengthen the CE marking, inter alia by way of the current information campaign, are useful. At the same time strengthened administrative cooperation is important. The Internal Market Information System is a valuable contribution to achieving this.

A more trustworthy system will encourage labour mobility and promote a well-functioning European labour market. Citizens still face many obstacles to free movement within the Single Market. It is important to step up efforts to remedy this by providing practical assistance and advice. The ongoing work to streamline and improve various Single Market Assistance Services (SMAS) is important to this end.

Continued effort is needed to reduce administrative burdens and ensure better regulation at national level as well as at EU level. Notably, this work is important for the competitiveness of European enterprises.

Many aspects of the Single Market are of great importance for the territorial and regional development. Norway agrees to the need of balancing competitiveness and cohesion and to evaluate the potential impact on regions of Single Market policy and regulations. The effect of EU rules, notably competition or state aid rules, on remote or sparsely populated regions must be considered when designing the regulatory framework.

#### *Smarter transport infrastructures*

Europe needs smarter transport infrastructures. Policy measures should promote a shift to more environmentally friendly transport modes, notably by improving public

transport system and setting up a taxation system discouraging the use of private car. Measures to optimize the use of all modes of transport, individually or in combination by facilitating the passage from one transport mode to another, are also important. Removing bottlenecks and building infrastructure networks are crucial for increased modal shift and co-modality, establishing “green transport corridors” and dedicated freight networks. In order to stimulate better integration of the different transport modes, new mechanisms and new technology should be sought for seamless planning, financing and organizing of terminals for combined transport.

Improved accessibility is a basic condition for enhanced competitiveness for countries with location in the periphery of Europe and low transport volumes. This can be achieved in the revised TEN-T guidelines through a balanced approach between a comprehensive network and a core network. The economic situation varies between Member States. While public private partnerships (PPP) may be an alternative in some cases, it is important that it is left up to national authorities to decide if and to what extent PPP is an appropriate approach.

#### *Economic freedoms and workers' rights*

The Norwegian Government supports professor Monti's suggestion to present a regulation to improve the way the Directive on posting of workers<sup>1</sup> is interpreted and implemented. This should include public procurement considerations as well as taking into account the objectives of the Lisbon Treaty of a social market economy. Recent case law has demonstrated a need for an underlining of the possibility for public authority to base public procurement on social criteria such as the payment of relevant standard wages and other working conditions.

The Lisbon Treaty is making the European Charter of Fundamental Rights legally binding. This must alter the impact of the economic freedoms on the right to strike as established by the European Court of Justice (ECJ). Professor Monti has proposed to examine whether an existing EU Regulation<sup>2</sup> could serve as inspiration in this context.

#### *Harnessing public procurement rules for Europe's policy goals*

Norway welcomes the process to reform public procurement. The current directives are complex, causing problems for public authorities and SMEs. Due to the complexity and an unclear legal situation, contracting authorities can end up breaching the rules despite a diligent process and good faith. This situation, in combination with stricter enforcement rules, may cause contracting authorities focusing more on formalities than on obtaining better and more cost-efficient procurements. This is unsatisfactory.

Norway agrees that some further clarification on the concept of “in house” would be beneficial, based on recent ECJ case law. The scope of action for public authorities

---

<sup>1</sup> Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

<sup>2</sup> The Monti report is referring to Article 2 of Council Regulation 2679/98/EC on the functioning of the internal market in relation to the free movement of goods among the Member States.

should be expanded in order to achieve the best organisation of public services, for example through various forms of inter-municipal cooperation.

Norway agrees that EU rules should allow public procurement as a tool to achieve policy objectives related inter alia to climate change and energy efficiency, innovation or working conditions. However, many additional binding requirements designed to achieve such broader policy goals may lead to more challenging procurement. Therefore, it is important to develop tools that make such procurement practices simpler and predictable.

#### *Social services and SGEI*

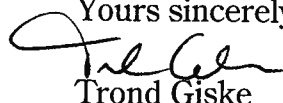
Norway is of the opinion that more flexibility should be sought as regards procurement of social services. Fundamental rights are at stake as far as social services are concerned, and the public procurement principles are not always well designed for the specificities of these services.

We welcome a revision of the state aid rules concerning the regulations on services of general economic interest (SGEI). The current regulatory framework is complex and leaves little room for flexibility. Lack of knowledge is also a problem. A broadening of the Decision on State Aid to SGEI dated 28 November 2005 by raising the threshold and expanding the list of activities may be welcomed. However, we see the problem as being more extensive than this. Defining a service of general economic interest, especially the distinction between economic and non-economic activities, is difficult. Also, the conditions on entrustment, compensation, and control of overcompensation, all result in uncertainty for the users. The Norwegian Government will elaborate further on these issues in a forthcoming response to the current Commission consultation on the State aid rules on SGEI.

The Single Market is an important part of the Europe 2020 Strategy for smart, sustainable and inclusive growth. The success of this strategy depends on finding the right balance between open markets, competition and smart regulation. Welcoming many of the proposals by professor Monti, the Norwegian Government underlines that new policy measures should be evidence based. Thus, more detailed economic analyses may be necessary before concluding on which new rules or actions to prioritise.

Increased political priority and joint efforts are needed to succeed in the coming years. The Norwegian Government is looking forward to future deliberations and cooperation with the EU on various aspects of the further development of the Single Market.

Yours sincerely,



Trond Giske